

STATE OF INDIANA) IN THE ALLEN SUPERIOR COURT
) SS:
 COUNTY OF ALLEN) CAUSE NO:

CHRIS D. CUNNINGHAM,)
)
 Plaintiff,)
)
 v.)
)
 REA MAGNET WIRE COMPANY, INC.)
)
 Defendant.)

COMPLAINT

COMES NOW the Plaintiff, Chris D. Cunningham (“Cunningham”), and for his causes of action against the Defendant, Rea Magnet Wire Company, Inc. (“REA”), states and alleges as follows:

I. INTRODUCTION

1. This is an action brought by Cunningham against REA for age discrimination with respect to his termination from employment with REA on or about November 12, 2019.

Cunningham began his employment with REA on or about March 2007 as a Warehouse Supervisor, and at the time of his termination held the position of Warehouse Manager. At the time of his termination from employment with REA, Cunningham was told that his position with REA was being eliminated due to alleged business conditions creating the need to adjust its fixed costs. According to REA, Ron Foster (“Foster”), the Purchasing Manager, took over Cunningham’s job duties after Cunningham was let go. REA claims it combined two (2) salaried positions into one and that Foster was chosen for that position because he had experience in distribution and purchasing, while Cunningham only had experience in distribution.

Cunningham disputes that Foster was more qualified than him. Cunningham also disputes that Foster is performing the duties of his former job as all, or substantially all, of his job duties were assigned to the position of “Group Leader – Shipping”. The Group Leader-Shipping job description is attached to this Complaint as Exhibit 1. A young female intern named Kinley, believed to be 28 to 30 years old, was hired for this position. Cunningham was never considered for or offered this position, even though REA knew his position was being eliminated and he had more experience, qualifications, and seniority. In addition, at no time ever in his over twelve and a half years of employment with REA was Cunningham ever reprimanded, written up, or provided any notice that his behavior or performance were, in any way, less than satisfactory. All of his performance reviews were favorable.

Cunningham seeks all relief available under the ADEA, including, but not limited to, back pay and benefits, front pay and benefits, liquidated damages on account of the willful violation of the ADEA, costs and attorney fees.

II. PARTIES

2. Cunningham is an individual citizen and resident of Fort Wayne, Allen County, Indiana.

3. REA Magnet Wire is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal place of business located at 3400 E. Coliseum Blvd., Ste. 200 in Fort Wayne, Indiana, 46805.

III. JURISDICTION

4. This Court has jurisdiction over this action by virtue of the Age Discrimination in Employment Act, specifically 29 U.S.C. §626(c)(1), which expressly provides that “[a]ny person

aggrieved may bring a civil action in any court of competent jurisdiction...” The Allen Superior Court is a court of competent jurisdiction.

IV. FACTS

5. Cunningham incorporates by reference paragraphs 1-4 of his Complaint as if same were fully set forth herein.

6. Cunningham began his employment with REA on or about March 2007 and worked for REA at its plant located in New Haven, Indiana as Warehouse Supervisor and then Warehouse Manager.

7. On or about November 12, 2019, Cunningham was terminated from REA due to alleged business conditions creating the need to adjust its fixed costs.

8. On or about March 12, 2020, Cunningham filed a Charge of Discrimination with the Fort Wayne Metropolitan Human Relations Commission and dual filed same with the EEOC, a copy of which is attached to this Complaint as Exhibit 2.

9. On or about December 4, 2019, Cunningham received a letter from REA responding to Cunningham’s Open-Door Appeal which he had filed contesting his discharge. This letter notified Cunningham that he was terminated from his employment due to business conditions and REA’s need to adjust its fixed costs. A copy of this letter is attached as Exhibit 3.

10. Cunningham asserts that REA’s stated reasons for terminating him, i.e. that his position was eliminated and his job duties were combined with those of the Purchasing Manager, who was more qualified than him, are pretexts or lies. Foster was not more qualified than Cunningham. More importantly, Cunningham disputes that Foster is performing the duties of his former job as all, or substantially all, of his job duties were assigned to the position of “Group Leader – Shipping,” the job description for which is attached as Exhibit 1. A young female intern,

believed to be 28 to 30 years old, named Kinley was hired for his position. Cunningham was never considered for or offered this position, even though REA knew his position was being eliminated and knew he had more experience, qualifications, and seniority.

11. As a direct result of the wrongful termination, Cunningham has suffered damages including, but not limited to, lost pay and benefits, future lost pay and benefits, costs and attorney's fees, and he seeks punitive damages and liquidated damages in this action.

V. STATEMENT OF CLAIMS

COUNT I – Age Discrimination

12. Cunningham incorporates by reference paragraphs 1-11 of his Complaint as if same were fully set forth herein.

13. Cunningham was wrongfully terminated from his employment at REA on account of his age.

14. The conduct of REA in terminating Cunningham was willful entitling Cunningham to liquidated damages.

VI: PRAYER FOR RELIEF

WHEREFORE, Cunningham prays for judgment in his favor and for the following damages:

- a) back pay and benefits;
- b) front pay and benefits;
- c) liquidated damages for the willful ADEA violation;
- d) attorney's fees and costs; and
- e) all other relief appropriate under these circumstances.

JURY DEMAND

Plaintiff, Chris D. Cunningham, hereby demands a trial by jury as to all issues so triable.

Respectfully submitted,

THEISEN & ASSOCIATES, LLC

/s/ John C. Theisen

John C. Theisen (549-02)

Nathaniel O. Hubley (28609-64)

810 S. Calhoun Street, Suite 200

Fort Wayne, IN 46802

Telephone: 260-422-4255

Attorneys for Plaintiff

Allen Superior Court



JOIN OUR TALENT COMMUNITY



If you are unable to complete this application due to a disability, contact this employer to ask for an accommodation or an alternative application process.

Group Leader- Shipping

Full Time

6 days ago

Operatives

Requisition ID: 1025

NH Plt - Hourly, Fort Wayne, IN, US

Position Summary

Oversees, monitors and coordinates production group's activities. Ensure group's goals are aligned with and represent the overall company directives related to production, quality and safety. Acts as a liaison between shifts, supervisor and employees. Promotes safe work behaviors and serves as a role model in the adherence to workplace policies and procedures. This position will not have disciplinary or supervisory responsibilities.

Essential Functions and Responsibilities:

- Manages warehouse and shipping responsibilities
- Manage employees to pick, band, load shipments
- Work within customer portals to set up shipments
- Work within Rea transportation system to set up shipments
- Load/unload raw materials (Rod, Pallets, Packaging, etc...)
- Communicate with customers logistics departments to arrange and schedule shipments
- Communicate with internal customer service representatives to set up shipments and to advise shipment status ^{BACK} _{APPLY} Navigate through Rea MFG pro system to transact inventory and

EXHIBIT

1

shipments

- Oversees and leads daily process changes. Communicates with operators, other group leaders and supervisors regarding maintenance on equipment, production issues, quality concerns or any issues that occur during shift.
- Monitors surface condition of wire, proper spooling, lubes, lube felts, empty stems, reels and brazes, solution systems, verify material in portables and always checking for enamel leaks and spills on floor. Dispositions excess wire.
- Monitors quality by checking screens for HVC and bead alarms, wires that are running through the inline testing heads, laser mics and CTC cameras for proper fit, ensures quality checks are being done and disposition QC Hub rejects. Work with operators to resolve quality issues.
- Assists operators with quality and production/process issues. Performs QC Hub overrides.
- Assures department schedules are followed, inventory and cycle counts, writing processes, hot list, excess list, CTC tensile test, troubleshooting production and quality issues, verify process sheet data with products being produced. Charges out supply wire for film and fabric, verifies bobbin counts.
- Cover for vacancies and absences of other group leaders. Cover for operator absences when required.
- Continually reviews scrap data from Sharepoint to identify areas that need improvement or processes that may need adjustment.
- Audits key performance indicators (KPI's). Performs other required audits.
- Writes work orders for necessary repair and adjustments. Monitors work orders to ensure work is completed on a timely basis.
- Attends daily production meetings.
- Other work duties as assigned.

Position Specifications

- High School Diploma or GED
- Some supervisory experience, either on a full time or fill in basis preferred
- Ability to lead and motivate others.
- Forklift license or ability to qualify for a license.
- Excellent attendance BACK APPLY

CHARGE OF DISCRIMINATION		Charge Presented To: Agency(ies) Charge No(s): <input checked="" type="checkbox"/> FEPA EO-0104-A20 <input checked="" type="checkbox"/> EEOC 24D-2020-00159	
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.			
City of Fort Wayne Metro Human Relations Commission and EEOC <small>State or local Agency, if any</small>			
Name (indicate Mr., Ms., Mrs.) Chris D. Cunningham		Home Phone (incl. Area Code) (260) 241-3850	Date of Birth 1962
Street Address City, State and ZIP Code 3524 S. Washington Rd., Fort Wayne, IN 46802			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name REA MAGNET WIRE		No. Employees, Members 15 - 100	Phone No. (Include Area Code)
Street Address City, State and ZIP Code 4300 New Haven Ave, Fort Wayne, IN 46803			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 11-12-2019 11-12-2019 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s): I am a qualified employee over the age of 40 that worked for Rea Magnet Wire ("Respondent") from March 26, 2017, until I was terminated on November 12, 2019. On November 12, 2019, I was told by human resource manager, Susie Eberle, and supply chain manager, Joe Haupert, that my position was being eliminated due to fixed cost business conditions. However, Respondent hired an employee outside of my protected class for my position. For these reasons, I feel I have been discriminated against based on my age, 57, in violation of the Age Discrimination in Employment Act of 1967, as amended, and the Fort Wayne Ordinance G-21-78, as amended.			
		MARK DARNELL BURKS, Notary Public Allen County, State of Indiana Commission Number 696764 My Commission Expires February 13, 2022	



I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct. <div style="display: flex; justify-content: space-between;"> <div> Mar 12, 2020 <small>Date</small> </div> <div> <small>Charging Party Signature</small> </div> </div>	NOTARY - When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE <small>(month, day, year)</small> 3/12/2020
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EXHIBIT2



December 4, 2019

Mr. John C. Theisen
Theisen & Associates
810 South Calhoun Street, Suite 200
Fort Wayne, IN 46802

Dear Mr. Theisen:

We are in receipt of your letter dated November 26, 2019, in reference to Chris Cunningham's termination of employment with Rea Magnet Wire Company.

As communicated with Mr. Cunningham on November 12, 2019 verbally and in writing, due to current business conditions, Rea needs to adjust its fixed costs. As such, the plant supply chain team was restructured and Mr. Cunningham's position as Distribution Supervisor (of which he was the only incumbent) was eliminated.

The Company restructured its supply chain team by combining the Distribution Supervisor duties with the Purchasing Supervisor position. In analyzing the incumbents holding the Purchasing Supervisor and Distribution Supervisor positions, the Purchasing Supervisor previously held both roles at one point in time in his career at the plant; has more years of service than Mr. Cunningham (23 vs. 12); and is older than Mr. Cunningham even though age was not a factor in the company's decision-making process. Further, Rea's Lafayette and Guilford plants each have one salaried team member holding the Purchasing & Distribution Supervisor role.

In light of the above, Rea denies any and all allegations of age discrimination by Mr. Cunningham. The company provided Mr. Cunningham with a reasonable separation package allowing him the ability to transition to other employment.

If you wish to discuss further, you may contact me at 260-421-7343.

Sincerely,

A handwritten signature in cursive script that reads 'Susan Boyd'.

Susan Boyd

Vice President of Human Resources

